

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DEONDRE RAGLIN,

Plaintiff,

v.

LICHUAN PAN, AS TRUSTEE OF THE PAN
REVOCABLE TRUST; and DOES 1 to 10,

Defendants.

Case No.: 2:23-cv-02551-MEMF-Ex

**ORDER DECLINING TO EXERCISE
SUPPLEMENTAL JURISDICTION OVER
PLAINTIFF'S STATE LAW CLAIMS**

Before the Court is the Response to the Court's Order to Show Cause Regarding Supplemental Jurisdiction filed by Plaintiff Deondre Raglin. ECF No. 11. For the reasons stated herein, the Court **DECLINES** to exercise supplemental jurisdiction over Plaintiff's state law claims and **DISMISSES** the claims.

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1 **I. Background**

2 **A. Factual Background¹**

3 Plaintiff Deondre Raglin (“Raglin”) has physical disability with substantial limitation in his
4 ability to walk due to paraplegia related to T8 spinal cord injury; he requires the use of a wheelchair
5 at all times when traveling in public. Compl. ¶ 4. Defendants Lichuan Pan (“Pan”) and Defendants
6 Does 1 through 10 are, or were at the time of the incident, the real property owners, business
7 operators, lessors and/or lessees of the real property for a restaurant (“Business”) located at or about
8 11251 S. Western Ave., Los Angeles, California. *Id.* ¶ 5.

9 In or about January 2023, Raglin went to the Business; a restaurant which is open to the
10 public and is a place of public accommodation and affects commerce through its operation. *Id.*
11 ¶ 9. He encountered barriers in doing so. *Id.* ¶ 10. The Business does not provide the access aisle
12 with level surface slopes, failed to maintain paint on the ground as required, and does not maintain
13 the mark on the surface with the space with the International Symbol of Accessibility. *Id.* These
14 issues denied Raglin the full and equal access to the Business and deterred him from visiting the
15 business. *Id.* ¶ 14.

16 **B. Procedural History**

17 On April 5, 2023, Raglin filed a complaint against Pan, as trustee of the Pan revocable trust,
18 and Does 1-10, asserting: (1) a claim for injunctive relief arising out of an alleged violation of the
19 Americans with Disabilities Act (“ADA”), 42 U.S.C. §§ 120101-12213; (2) a claim for damages
20 pursuant to California’s Unruh Civil Rights Act (“Unruh Act”), CAL. CIV. CODE §§ 51–52, *et seq.*;
21 (3) a claim for damages pursuant to the California Disabled Persons Act, CAL. CIV. CODE §§ 54, *et*
22 *seq.*; (4) a claim for damages and injunctive relief pursuant to the CAL. BUS. & PROF. CODE § 17200,
23 *et seq.*; and (5) a claim for damages for negligence. Compl. On May 18, 2023, the Court ordered
24 Raglin to show cause as to why the Court should exercise supplemental jurisdiction over his state
25 law claims. ECF No. 10 (“OSC”). Raglin filed a response on June 1, 2023. ECF No. 11 (“Resp.”).

26 **II. Applicable Law**

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28 ¹ The factual allegations included in this section are taken from the Complaint. ECF No. 1 (“Compl.”).

1 **A. Supplemental Jurisdiction**

2 42 U.S.C. § 1367 “reflects the understanding that, when deciding whether to exercise
3 supplemental jurisdiction, ‘a federal court should consider and weigh in each case, and *at every*
4 *stage of the litigation*, the values of judicial economy, convenience, fairness, and comity.’” *City of*
5 *Chicago v. Int’l Coll. of Surgeons*, 522 U.S. 156, 173 (1997) (emphasis added) (quoting *Carnegie-*
6 *Mellon Univ. v. Cohill*, 484 U.S. 343, 350 (1988)). A district court has supplemental jurisdiction
7 over “all other claims that are so related to claims in the action within such original jurisdiction that
8 they form part of the same case or controversy under Article III of the United States Constitution.”
9 28 U.S.C. § 1367(a). However, district courts have the discretion to decline to exercise supplemental
10 jurisdiction if:

- 11 (1) The claim raises a novel or complex issue of State law;
- 12 (2) The claim substantially predominates over the claim over which the district
 court has original jurisdiction;
- 13 (3) The district court has dismissed all claims over which it has original
 jurisdiction; or
- 14 (4) In exceptional circumstances, there are other compelling reasons for
 declining jurisdiction.

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16 *Id.* § 1367(c). A district court declining supplemental jurisdiction pursuant to the section
17 1367(c)(4)’s “exceptional circumstances” provision must satisfy a two-part inquiry: (1) the “district
18 court must articulate why the circumstances of the case are exceptional within the meaning of §
19 1367(c)(4)”; and (2) “in determining whether there are compelling reasons for declining jurisdiction
20 . . . the court should consider what best serves the principles of economy, convenience, fairness, and
21 comity which underlie the pendent jurisdiction doctrine.” *Vo v. Choi*, 49 F.4th 1167, 1171 (9th Cir.
22 2022) (internal quotation marks omitted) (quoting *Arroyo v. Rosas*, 19 F.4th 1202, 1210 (9th Cir.
23 2021) (describing the inquiry)).

24 **B. The ADA and Unruh Act**

25 The ADA prohibits discrimination “on the basis of disability in the full and equal enjoyment
26 of the goods, services, facilities, privileges, advantages, or accommodations of any place of public
27 accommodation by any person who owns, leases (or leases to), or operates a place of public
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1 accommodation.” 42 U.S.C. § 12182(a). Only injunctive relief is available under the ADA. *See*
2 *Wander v. Kaus*, 304 F.3d 856, 858 (9th Cir. 2002).

3 The Unruh Act entitles all people within California, regardless of their disability “to the full
4 and equal accommodations, advantages, facilities, privileges, or services in all business
5 establishments of every kind whatsoever.” CAL. CIV. CODE § 51(b). Under the Unruh Act, a
6 violation of the ADA constitutes a violation of § 51 of the Unruh Act. *See id.* § 51(f). And although
7 the Unruh Act also permits injunctive relief, unlike the ADA, it also allows for recovery of monetary
8 damages. It entitles plaintiffs to actual damages for each offense “up to a maximum of three times
9 the amount of actual damage but in no case less than four thousand dollars.” *Id.* § 52(a). “The
10 litigant need not prove she suffered actual damages to recover the independent statutory damages of
11 \$4,000.” *Molski v. M.J. Cable, Inc.*, 481 F.3d 724, 731 (9th Cir. 2007).

12 Under the Unruh Act, all persons in California, “no matter what their . . . disability . . . are
13 entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all
14 business establishments of every kind whatsoever.” CAL. CIV. CODE § 51(b). The Unruh Act and the
15 ADA go hand-in-hand—a violation of the ADA is automatically a violation of the Unruh Act. *Vo*, 49
16 F.4th at 1169 (citing *Arroyo*, 19 F.4th at 1204). However, unlike the ADA, the Unruh Act allows for
17 recovery of monetary damages for every offense “up to a maximum of three times the amount of
18 actual damage but in no case less than four thousand dollars (\$4,000).” CAL. CIV. CODE § 52(a).

19 Further, California law sets forth a heightened pleading standard for lawsuits brought under
20 the Unruh Act. *See* CAL. CIV. PROC. CODE §§ 425.55(a)(2) & (3). The stricter pleading standard
21 requires certain plaintiffs bringing construction-access claims like the one in the instant case to file a
22 verified complaint alleging specific facts concerning the plaintiff’s claim, including the specific
23 barriers encountered or how the plaintiff was deterred and each date on which the plaintiff
24 encountered each barrier or was deterred. *See id.* § 425.50(a). A “high-frequency litigant fee” of
25 \$1,000 is also imposed on certain plaintiffs and law firms bringing these claims. *See* CAL. GOV’T
26 CODE § 70616.5. A “high-frequency litigant” is “a plaintiff who has filed 10 or more complaints
27 alleging a construction-related accessibility violation within the 12-month period immediately
28 preceding the filing of the current complaint alleging a construction-related accessibility violation”

1 *and* “an attorney who has represented as attorney of record 10 or more high-frequency litigant
 2 plaintiffs in actions that were resolved within the 12-month period immediately preceding the filing
 3 of the current complaint alleging a construction-related accessibility violation.” CAL. CIV. PROC.
 4 CODE §§ 425.55(b)(1) & (2). High frequency litigants are also required to state: (1) whether the
 5 complaint is filed by, or on behalf of, a high-frequency litigant; (2) in the case of a high-frequency
 6 litigant who is a plaintiff, the number of complaints alleging construction-related accessibility claim
 7 filed by the high-frequency litigant during the 12 months prior to filing the instant complaint; (3) the
 8 reason the individual was in the geographic area of the defendant’s business; and (4) the reason why
 9 the individual desired to access the defendant’s business.” *See id.* § 425.50(a)(4)(A).

10 **III. Discussion**

11 In the Order to Show Cause, the Court ordered Raglin to show cause in writing why the
 12 Court should exercise supplemental jurisdiction over the Unruh Act claim, the California Disabled
 13 Persons Act claim, the California Business and Professional Code claim, and the negligence claim.
 14 *See* 28 U.S.C. § 1367(c). Further, the Court ordered Raglin to quantify the amount of statutory
 15 damages he seeks to recover and provide all facts necessary for the Court to determine if Raglin and
 16 Raglin’s counsel satisfy the definition of “high-frequency litigants” as provided by California Code
 17 of Civil Procedure §§ 425.55(b)(1) & (2). The Court finds Raglin’s state law claims unsuitable for
 18 supplemental jurisdiction within the meaning of section 1367(c)(4).

19 **A. The Court declines to exercise supplemental jurisdiction over the state law** 20 **claims.**

21 In the OSC, the Court ordered Raglin to “identify the amount of statutory damages” sought
 22 under the Unruh Act and include declarations “providing all facts necessary” for the Court to
 23 determine whether Raglin and Raglin’s counsel satisfy the definition of a “high-frequency litigant”
 24 as provided by California Code of Civil Procedure §§ 425.55(b)(1) & (2). OSC at 2.

25 i. Raglin qualifies as a high frequency litigant.

26 In the response to the Court’s OSC, Raglin conceded that both he and his counsel “likely”
 27 qualify as high frequency litigants under CAL. CIV. PROC. CODE §§ 425.55(b)(1) & (2). *See* ECF No.
 28 12-2 ¶ 4; ECF No. 12-1 ¶ 2.

1 Therefore, in state court, Raglin would not only be obligated to pay the \$1,000 high-
 2 frequency litigant fee but would also be required to meet the heightened pleading standard and allege
 3 specific facts relating to his claim. Although Raglin alleges that he “is deterred from visiting the
 4 Business,” he has not set forth the allegations required by the heightened pleading standard —
 5 namely, he fails to disclose in his complaint that the complaint was filed by or on behalf of a high-
 6 frequency litigant, state the number of construction-related accessibility complaints he filed within
 7 the 12 months prior to filing the instant complaint, or explain why he was in the geographic area of
 8 the Business. *See Compl.*

9 The California legislature has determined that requiring Raglin and other high frequency
 10 litigants to meet this heightened pleading standard would serve California’s interest in preventing
 11 continued abuse of the Unruh Act by high-frequency litigants. *Arroyo*, 19 F.4th at 1206–07. It is
 12 therefore appropriate in view of the *Gibbs* values of judicial economy, convenience, fairness to
 13 litigants, and comity to decline supplemental jurisdiction so that Raglin may comply with the
 14 requirements and California’s interest in curtailing abuse can be vindicated.

15 ii. Raglin’s state law claims predominate over the federal ADA claim.

16 Raglin asserts five claims: one federal law claim and four state law claims. *See generally*
 17 *Compl.* Of these four claims, Raglin seeks damages and injunctive relief in connection with her state
 18 law claims and as proscribed by statute, only seeks an injunction in connection with her ADA claim.
 19 *See Compl.*

20 A district court may dismiss state law claims without prejudice if a state law claim
 21 “substantially predominates” over a federal claim “in terms of proof, of the scope of the issues raised
 22 or of the comprehensiveness of the remedy sought.” *Gibbs*, 383 U.S. at 726–27. Indeed, the Unruh
 23 Act entitles plaintiffs to a minimum award of \$4,000 for each violation of the Act. CAL. CIV. CODE §
 24 52(a).

25 The Court finds that Raglin’s state law claims predominate over the federal law ADA claim.
 26 Raglin seeks “all appropriate damages, including but not limited to statutory damages, general
 27 damages and treble damages in amounts, according to proof,” and as such, any potential monetary
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1 damages awarded predominate over the injunctive relief sought on the ADA claim. Compl. at
 2 Prayer.

- 3 iii. Given the comity concerns expressed by the Ninth Circuit, exceptional
 4 circumstances exist to justify declining exercise of supplemental jurisdiction.

5 In the Ninth Circuit, to qualify as “exceptional circumstances” under section 1367(c)(4), the
 6 circumstances at hand “should be ‘quite unusual’ and should not rest ‘solely’ on routinely occurring
 7 conditions such as ‘docket congestion.’” *Arroyo*, 19 F.4th at 1211 (quoting *Ex. Software N. Am., Inc.*
 8 *v. U.S. Dist. Ct. for Cent. Dist. of Cal.*, 24 F.3d 1545, 1558, 1560 n.15 (9th Cir. 1994)). The Ninth
 9 Circuit has held that in the context of joint ADA-Unruh Act claims, the specific legislative apparatus
 10 surrounding the Unruh Act and the ADA meets the “exceptional circumstances” threshold. *Vo*, 49
 11 F.4th at 1170 (citing *Arroyo*, 19 F.4th at 1213). Specifically, the California Legislature created the
 12 Unruh Act to give plaintiffs seeking an injunction under the ADA the additional option of pursuing
 13 monetary damages. *Arroyo*, 19 F.4th at 1211–12. The Unruh Act “relies dispositively on the ADA’s
 14 substantive rules [and] expands the remedies available in a private action” to include monetary
 15 damages. *Id.* at 1211. The California legislature became concerned that “high-frequency litigants
 16 may be using the statute to obtain monetary relief for themselves without accompanying adjustments
 17 to locations to assure accessibility to others.” *Id.* But rather than adjust the language of the statute,
 18 the California Legislature opted to impose filing restrictions on potential litigants, making it “very
 19 unattractive” for litigants seeking monetary relief to file joint ADA-Unruh Act claims in state court.
 20 *Id.* at 1211–12. However, as these restrictions do not apply in federal court, they have been rendered
 21 “largely toothless,” causing a “wholesale shifting of Unruh Act/ADA cases into the U.S. District
 22 Court for the Central District of California.” *Id.* As the Ninth Circuit concluded, because this evasion
 23 of the Legislature’s limitations would both be unfair to defendants and constitute “an affront to the
 24 comity between federal and state courts,” it rises to the level of “exceptional circumstances” under
 25 section 1367(c)(4). *Vo*, 49 F.4th at 1171.

26 Here, the circumstances in this case meet the “exceptional” threshold. As previously
 27 discussed, both Raglin and his counsel qualify as high-frequency litigants. Further, given the “unique
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1 configuration of laws in this area” that have given rise to concerns regarding fairness and the comity
2 between federal and state courts, exercising supplemental jurisdiction over Raglin’s Unruh Act claim
3 results in the same evasion of the California state legislature’s filing restrictions. *Id.*

4 Moreover, as discussed above, Raglin’s four state law claims predominate over the single
5 federal law claim. Thus, extending supplemental jurisdiction over the Unruh Act would run afoul of
6 principles of federal-state comity.

7 iv. As this case is in its nascent stages, there are compelling reasons for declining
8 supplemental jurisdiction.

9 Given that the first prong is satisfied, this Court must proceed to the second prong and
10 consider “what best serves the principles of economy, convenience, fairness, and comity which
11 underlie the pendent jurisdiction doctrine.” *Id.* at 1171 (internal quotation marks omitted) (quoting
12 *Arroyo*, 19 F.4th at 1210).

13 This case is still in its early stages—the initial complaint was filed on April 5, 2023, and the
14 Defendants have not yet appeared. Accordingly, *Vo* does not dictate that the Court retain
15 jurisdiction. *Compare id.* at 1172 (concluding that because “[t]he district court here declined
16 supplemental jurisdiction over Vo’s Unruh Act claim well before it ruled on the merits of the ADA
17 claim,” there is “no reason to hold that the district court abused its discretion in determining there
18 were compelling reasons to decline jurisdiction over the Unruh Act claim”), *with Arroyo*, 19 F.4th at
19 1215–16, (“If the district court had declined supplemental jurisdiction over Arroyo’s Unruh Act
20 claim at the *outset* of the litigation, it might then still have been possible to further California’s
21 interest in cabining Unruh Act damages claims through the imposition of heightened *pleading*
22 requirements and a substantial up-front filing fee.”).

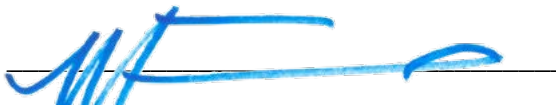
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1 Accordingly, the Court DECLINES to exercise supplemental jurisdiction over Raglin's state
2 law claims. The Court therefore DISMISSES the Unruh Act claim, California Disabled Persons Act
3 claim, the California Business and Professional Code claim, and the negligence claim, without
4 prejudice.

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6 IT IS SO ORDERED.

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8 Dated: June 30, 2023

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11 MAAME EWUSI-MENSAH FRIMPONG
12 United States District Judge
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